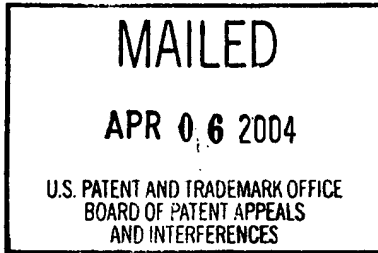


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES



Ex parte JOHN E. DONOHUE

Application No. 09/433,332

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (BPAI) on March 24, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

Appellant filed a Reply Brief on February 23, 2004 (Paper No. 22) in response to the Examiner's Answer entered December 16, 2003 (Paper No. 21).

Section 1208.03 of the Manual of Patent Examining Procedure (8th ed., Rev. 1, Feb. 2003) states:

Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within 2 months from the date of such examiner's answer or supplemental examiner's answer. . . . The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief. See also 37 CFR § 1.193. (emphasis added)

Application No. 09/433,332

There is no indication on the record whether or not the examiner has responded to Appellant's Reply Brief.

Accordingly, it is

ORDERED that the application is being returned to the Examiner for the Examiner to:

(a) issue a proper response in conformance with 37 CFR § 1.193 (b)(1) to

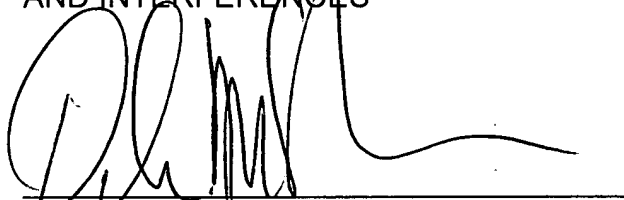
Appellant's Reply Brief, filed February 23, 2004, and

(b) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW  
Program and Resource Administrator  
(703) 308-9797

cc: FOGG AND ASSOCIATES, LLC  
P.O. BOX 581339  
MINNEAPOLIS, MN 55458-1339

DMS/vsh  
RA04-0417